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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,

v.

NOVELLUS SYSTEMS, INC.

Defendants.

CIVIL ACTION NO. 07-4787

COMPLAINT

Civil Rights - Employment Discrimination

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race and retaliation and to provide appropriate relief to Charging Party Michael Cooke, an African American, who was adversely affected by such practices. Defendant Novellus Systems, Inc., subjected Mr. Cooke to unlawful racial harassment and a hostile work environment. In addition, Defendant subjected Mr. Cooke to retaliation (discharge/layoff) following his complaints about the racial harassment.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3)

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1 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-5(f)(1) and (3)
2 (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. 1981a.

3 2. The unlawful employment practices alleged to be unlawful were committed in the
4 City of San Jose, County of Santa Clara, California, which is within the jurisdiction of the United
5 States District Court for the Northern District of California (San Jose Division).

6 PARTIES

7 3. Plaintiff, the Equal Employment Opportunity Commission (“EEOC” or
8 “Commission”), is the agency of the United States of America charged with the administration,
9 interpretation, and enforcement of Title VII and is expressly authorized to bring this action by
10 Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5 (1) and (3).

11 4. At all relevant times, Defendant Novellus Systems, Inc. (“Defendant”) has
12 continuously been doing business in the State of California, in the City of San Jose, County of
13 Santa Clara, California, and has continuously employed at least fifteen employees.

14 5. At all relevant times, Defendant has continuously been an employer engaged in an
15 industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42
16 U.S.C. §2000e-(b), (g), and (h).

17 STATEMENT OF CLAIMS

18 6. More than thirty days prior to the institution of this lawsuit, Michael Cooke filed a
19 charge of discrimination with the EEOC alleging violations of Title VII by Defendant. All
20 conditions precedent to the institution of this lawsuit have been fulfilled.

21 7. Since at least January 2004, Defendant has engaged in unlawful employment
22 practices at its facility located in San Jose, California, in violation of Sections 703(a)(1) and
23 704(a) of Title VII, 42 U.S.C. §§2000e-2(a) and 2000e3(a). These practices including subjecting
24 Mr. Cooke to racial harassment and to an offensive, abusive, intimidating, and hostile work
25 environment on account of his race, African American. The practices also include retaliating
26 against and discharging (layoff) Mr. Cooke for complaining about the harassment made unlawful
27 by Title VII.

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8. The effect of the practices complained of above has been to deprive Mr. Cooke of equal employment opportunities and to otherwise adversely affect his status as an employee because of his race.

9. The unlawful employment practices complained of above were intentional.

10. The unlawful employment practices complained of above were and are done with malice and/or reckless indifference to the federally protected rights of Mr. Cooke.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in discrimination against its employees, including harassment based on race and retaliation.

B. Order Defendant to institute and carry out policies, practices, and programs which prohibit racial harassment and retaliation, and which eradicate the effects of its unlawful employment practices.

C. Order Defendant to make whole Mr. Cooke by providing compensation for past and future pecuniary losses caused by the above unlawful conduct, including, but not limited to, back pay and benefits, prejudgment interest, reinstatement and/or front pay and other appropriate relief, in amounts to be determined at trial.

D. Order Defendant to make whole Mr. Cooke by providing compensation for past and future non-pecuniary losses caused by the above unlawful conduct, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial.

E. Order Defendant to pay Mr. Cooke punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs of this action.

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The Commission requests a jury trial on all questions of facts by its complaints.

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DATED: Sept 10, 2007



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DATED: Sept 10, 2007



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